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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/963,720	09/26/2001	James A. Powell	17674 (13201US01)	9296

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EXAMINER
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LEON, EDWIN A

ART UNIT	PAPER NUMBER
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2833

DATE MAILED: 09/18/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/963,720

Applicant(s)

POWELL ET AL

Examiner

Edwin A. León

Art Unit

2833

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 7/12/02.
- 2a) ☒ This action is FINAL.
- 2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.

6) ☒ Claim(s) 1-29 is/are rejected.

7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.

8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☐ All b) ☐ Some \* c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.

4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other:

## DETAILED ACTION

### *Response to Amendment*

1. Applicant's amendment filed July 12, 2002 in which Claims 1 and 15 have been amended, and new Claim 29 has been added, has been placed of record in the file as Paper No. 6.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-3, 7-15, 18, 22-25 and 27 are rejected under 35 U.S.C. 102(b) as being anticipated by Denovich et al. (U.S. Patent No. 6,254,421). With regard to Claims 1-2, 27 and 29, Denovich et al. discloses a tetsplice connector (110) comprising: a housing (112) defining an interior channel (166) and having two opposing sides (162); and a crimping device (114) movably positioned inside the housing (112). The method is deemed inherent. See Figs. 6-10.

With regard to Claim 3, Denovich et al. discloses the housing (112) being formed of a nonconductive material. See Figs. 6-10.

With regard to Claim 7, Denovich et al. discloses the housing (112) being formed of at least two different materials. See Figs. 6-10.

With regard to Claim 8, Denovich et al. discloses the crimping device (114) being positioned in the housing (112) adjacent the channel (166). See Figs. 6-10.

With regard to Claim 9, Denovich et al. discloses a crimping portion (168). See Figs. 6-10.

With regard to Claim 10, Denovich et al. discloses a lower surface (lower part of 168) in the crimping portion (168). See Figs. 6-10.

With regard to Claim 11, Denovich et al. discloses the housing (112) including opposing first (116) and second engagement (160) surfaces defining at least one opening (168) fluidly communicating with the channel (166). See Figs. 6-10.

With regard to Claim 12, Denovich et al. discloses the first (116) and second engagement (160) surfaces defining a first pair of planes different from a pair of planes defined by the two opposing sides. See Figs. 6-10.

With regard to Claim 13, Denovich et al. discloses the crimping portion (168) defining at least one opening fluidly communicating with the channel (166). See Figs. 6-10.

With regard to Claim 14, Denovich et al. discloses a connecting plate (124) adjacent the channel (166). See Figs. 6-10.

With regard to Claim 15, Denovich et al. discloses a telsplice stick device (110) comprising: a first connector (Fig. 10) having a housing (112) and opposing sides; and a second connector (Fig. 10) having a housing (112) and opposing sides; wherein at least

one of the opposing sides of the first connector (Fig. 10) is removably connected to one of the sides of the second connector (Fig. 10). See Figs. 6-10.

With regard to Claim 18, Denovich et al. discloses the housings (112) being formed of a nonconductive material. See Figs. 6-10.

With regard to Claim 22, Denovich et al. discloses the first connector (Fig. 10) housing (112) being formed of one nonconductive material and the second connector (Fig. 10) housing (112) being formed of a second nonconductive material. See Figs. 6-10.

With regard to Claim 23, Denovich et al. discloses a crimping device (114) being positioned in each of the housings (112) adjacent to a channel (166) defined therein. See Figs. 6-10.

With regard to Claim 24, Denovich et al. discloses the first and second connectors (Fig. 10) further including a crimping portion (168). See Figs. 6-10.

With regard to Claim 25, Denovich et al. discloses a connecting plate (124) adjacent to the channel (166). See Figs. 6-10.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 4-6, and 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Denovich et al. (U.S. Patent No. 6,254,421). Denovich et al. discloses the claimed invention except for the housings formed of a polycarbonate material, a polyester material, or a polypropylene material. It would have been obvious to one having ordinary skill in the art at the time the invention was made to form the housings of a polycarbonate material, a polyester material, or a polypropylene material, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

6. Claims 16-17, 26 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Denovich et al. (U.S. Patent No. 6,254,421) in view of Teytaud (U.S. Patent No. 4,219,249). Denovich et al. discloses the claimed invention except for the use of ultrasonic weld to connect the first and second connectors.

Teytaud discloses the use of ultrasonic weld to connect different connectors. See Figs. 1-3 and Column 2, Lines 15-33.

Thus, it would have been obvious to one with ordinary skill in the art to modify the connector of Denovich et al. by using ultrasonic weld to connect the connectors as taught in Teytaud to obtain an easy and accomplished weld between the connectors.

### ***Response to Arguments***

7. Applicant's arguments filed July 12, 2002 have been fully considered but they are not persuasive. In response to Applicant's argument regarding Claims 1-2, 9-10, 13, and 24, that the Denovich et al. reference does not show a crimping device adapted to secure at least one electrical cable in the channel, the tetsplice connector adapted to be removable connected to at least one other tetsplice connector by an ultrasonic weld, the tetsplice connector being adapted to be removably connected to the at least one other connector on one of the two opposing sides, a crimping portion adapted to engage the crimping device, the crimping portion being adapted to engage an upper portion of the crimping device, the crimping portion adapted to receive the electrical cable, a connecting plate adapted to provide an electrical connection between electric cables received therein, Applicant is reminded that it has been held that the recitation that an element is "adapted to" perform a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense. *In re Hutchison*, 69 USPQ 138.

In response to Applicant's argument regarding Claims 3 and 18 that the Denovich et al. reference does not show the housing being of nonconductive material,

Applicant's attention is directed to Column 3, Lines 56-58 in which Denovich discloses the housing being insulative.

In response to Applicant's argument regarding Claims 19-21 that the Denovich et al. reference does not show the housings being formed of a polycarbonate material, a polyester material, or a polypropylene material. As mentioned in the rejection, the Examiner considers that it would have been obvious to one having ordinary skill in the art at the time the invention was made to form the housings of a polycarbonate material, a polyester material, or a polypropylene material, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

In response to Applicant's argument that there is no suggestion to combine the references, the Examiner recognizes that references cannot be arbitrarily combined and that there must be some reason why one skilled in the art would be motivated to make the proposed combination of primary and secondary references. *In re Nomiya*, 184 USPQ 607 (CCPA 1975). However, there is no requirement that a motivation to make the modification be expressly articulated. The test for combining references is what the combination of disclosures taken as a whole would suggest to one of ordinary skill in the



art. *In re McLaughlin*, 170 USPQ 209 (CCPA 1971). References are evaluated by what they suggest to one versed in the art, rather than by their specific disclosures. *In re Bozek*, In this case, it is well known in the art of electrical connector the use of ultrasonic welding to connect two separate connectors as taught in Teytaud. Therefore, the Examiner considers that it would have been obvious to one with ordinary skill in the art to connect the connectors of Denovich et al. by using ultrasonic weld as taught in Teytaud to obtain an easy and accomplished weld between the connectors.

### ***Conclusion***

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edwin A. León whose telephone number is (703) 308-6253. The examiner can normally be reached on Monday - Friday 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paula A. Bradley can be reached on (703) 308-2319. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7722 for regular communications and (703) 308-7724 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.



**THO D. TA**  
**PRIMARY EXAMINER**

Edwin A. Leon  
AU 2833

EAL  
September 12, 2002